

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

XIAO SHAN FENG,

No. C 12-01168 YGR (PR)

Petitioner,

**ORDER OF DISMISSAL WITHOUT  
PREJUDICE**

vs.

RALPH M. DIAZ, Acting Warden,

Respondent.

On March 8, 2012, Petitioner, a state prisoner, filed the present petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner filed a completed *in forma pauperis* application, a certificate of funds, and a copy of his prisoner trust account statement. The handwriting and signature on Petitioner's *in forma pauperis* application and his certificate of funds, however, appear to *match* -- that is, it appears that Petitioner completed and signed his own certificate of funds. The certificate of funds must be completed and signed by an authorized officer at the prison -- not by Petitioner himself.

On March 8, 2012, the Clerk of the Court notified Petitioner that his *in forma pauperis* application was deficient due to his failure to include a certificate of funds completed and signed by an authorized officer at the prison. The Clerk notified him that he must pay the filing fee or return a properly completed and signed certificate of funds within thirty days or his action would be dismissed.

More than thirty days have passed, and Petitioner has not paid the filing fee, returned a certificate of funds completed and signed by an authorized officer, or otherwise communicated with the Court.


IT IS HEREBY ORDERED THAT this action is DISMISSED WITHOUT PREJUDICE.  
The Clerk shall enter judgment, terminate all pending motions, and close the file.

IT IS FURTHER ORDERED THAT Ralph M. Diaz, the current acting warden of the prison

1 where Petitioner is incarcerated, be substituted as Respondent pursuant to Rule 25(d) of the Federal  
2 Rules of Civil Procedure.

3 IT IS SO ORDERED.

4 DATED: April 20, 2012

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

United States District Court  
For the Northern District of California